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 [Notices]
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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology
 [Docket No. 970811195-7195-01]

Alternative Personnel Management System (APMS) at the National
 Institute of Standards and Technology

AGENCY: National Institute of Standards and Technology, Department of
 Commerce.

ACTION: Notice of consolidation and republication of a demonstration
 project plan as a permanent system pursuant to Public Law 104-113.

SUMMARY: This notice (1) consolidates the original plan and the two
 subsequent amendments into a single document for better understanding
 and ease of use; (2) documents the procedures by which the equivalent
 of locality-based comparability payments are applied at the National
 Institute of Standards and Technology (NIST); (3) specifies how to
 determine the General Schedule (GS) grade and rates of pay for
 employees who leave the NIST alternative personnel management system;
 (4) allows NIST to remove from the pay-for-performance system any
 positions not filled by career or career-conditional appointment; and
 (5) corrects, simplifies, and clarifies the project plan.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT:

Allen Cassady at NIST on (301) 975-3031; Gail Redd at OPM on (202) 606-
 1521.

SUPPLEMENTARY INFORMATION:

1. Background

In accordance with Public Law 99-574, the NIST authorization act
 for 1987, OPM approved a demonstration project plan, "Alternative
 Personnel Management System at the National Institute of Standards and
 Technology," and published the plan in the Federal Register on October
 2, 1987 (52 FR 37082). The project plan has been modified two times to
 clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 54
 FR 33790 of August 16, 1989), and to revise the performance appraisal
 and pay administration systems to better link pay with performance (55
 FR 19688 of May 10, 1990, and 55 FR 39220 of September 25, 1990).

In a letter to NIST dated December 30, 1993, OPM offered two
 options to NIST for implementing locality pay beginning in January
 1994. Option 1 would have required implementation of locality pay in a
 manner as close as possible to the implementation for GS employees.
 Locality pay would have been separate from basic pay and would have

counted as basic pay for the same limited purposes for which it is basic pay for GS employees (5 CFR 531.606(b)). Option 2 would allow NIST to incorporate the equivalent of locality pay into its own basic pay package.

NIST chose Option 2. Adjustments in pay band ranges and in eligible employees' basic pay rates are made at the time of GS general and/or locality pay increases. Pay rates under the NIST Alternative Personnel Management System (NIST APMS) will be basic pay

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for all purposes except those specifically stated in this notice.

This notice formally changes the project plan to clarify how locality pay is applied at NIST. It also documents or clarifies any administrative change made by OPM under its authority on other pay-related matters.

2. Public Law 99-574, National Bureau of Standards Authorization Act For Fiscal Year 1987

Because many elements of the NIST APMS were originally required by Section 10 of Pub. L. 99-574, the complete text of Section 10 is presented here.

Demonstration Project Relating to Personnel Management

Sec. 10(a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any position within the National Bureau of Standards which would otherwise be subject to--

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule;

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System.

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that--

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph (3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which--

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under

chapter 43 of title 5, United States Code;

(5) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c)(3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances, (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct examination and hiring.

(c)(1) For the purpose of this subsection, the term "compensation" means the total value of the various forms of compensation provided, including--

- (A) basic pay;
- (B) bonuses;
- (C) allowances;
- (D) retirement benefits;
- (E) health insurance benefits;
- (F) life insurance benefits; and
- (G) leave benefits.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys--

(A) shall include findings as to--

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increase determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director--

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of--

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for that purpose, may further increase those minimum and maximum rates--

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section--

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal

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year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section has not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employees's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid--

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in

subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase.

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

(B) The contractor shall report its findings to the Office in writing. After considering the report, the Office shall transmit a copy of the report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to--

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General considers appropriate.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriated Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

After the initial five years of the project, OPM twice extended the project administratively. The first extension extended the project from December 30, 1992 through September 30, 1995. The second extension would have extended the project until September 30, 1998. However, the NIST personnel management demonstration project was extended indefinitely by Section 10 of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113, March 7, 1996):

Section 10. PERSONNEL

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

National Institute of Standards and Technology.

Robert E. Hebner,

Acting Director.

System Plan

The NIST alternative personnel management system plan reads as follows.

An Alternative Personnel Management System To Improve the Ability of the National Institute of Standards and Technology to Attract Highly Qualified Candidates, Motivate Employees, and Retain Successful

Performers

Introduction

Executive Summary

The NIST APMS was designed by the National Institute of Standards and Technology, in cooperation with the U.S. Department of Commerce (DoC) and the Office of Personnel Management (OPM). The NIST APMS was built on the concepts of: (1) Market sensitivity; (2) performance; (3) administrative simplicity; (4) management flexibility and accountability; and (5) Broad applicability.

The NIST APMS system was designed to (1) improve hiring and allow NIST to compete more effectively for high-quality researchers, through direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff, through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management, through delegation of personnel authorities; and (4) increase the efficiency of personnel systems, through installation of a simpler and more flexible classification system based on pay banding, through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Participating Organizations

All sites of the National Institute of Standards and Technology participate in the NIST APMS. The two main sites are located at Gaithersburg, Maryland, which is also the headquarters of NIST, and at Boulder, Colorado. The two main sites are similar in employment profiles,

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with the following exceptions: (1) about 85 percent of employees covered by the NIST APMS are located at the Gaithersburg site; and (2) all Operating Unit (OU) Directors are located in Gaithersburg. A small number of covered employees may from time to time work at sites other than Gaithersburg or Boulder.

Types and Numbers of Participating Employees

The NIST APMS covers approximately 3150 NIST employees.

Labor Participation

A few General Schedule employees at the Gaithersburg site are represented by the International Association of Firefighters (IAFF) and the International Association of Machinists and Aerospace Workers, AFL-CIO; and at the Boulder site by the American Federation of Government Employees (AFGE). NIST consults and negotiates with these unions, as appropriate, in accordance with 5 U.S.C. 4703(f).

Senior Executive Service (SES) and ST-3104 Positions

The personnel systems for SES positions (see 5 U.S.C. 3131-3136 and 5 U.S.C. 5381-5385) did not change for the NIST APMS. SES classification, staffing, compensation, performance appraisal, awards, and reduction in force are based on standard SES methods. The personnel

systems for ST-3104 positions (see 5 U.S.C. 3104 and 5376) changed only to the extent that ST-3104 positions are in the same performance appraisal, awards, and reduction in force systems as General Schedule positions. Classification, staffing, and compensation, however, did not change. Neither SES nor ST-3104 employees were subject to the pro rata share payouts upon conversion to the NIST APMS system. Pay adjustments for their positions under the NIST APMS are carried out in accordance with existing Federal rules pertaining to SES and ST-3104 pay adjustments.

General Schedule (GS) Positions

The GS category no longer exists as an identified category under the NIST APMS. It is incorporated in the new career-path/pay-band system. The step increases of the General Schedule are replaced by the annual performance pay increases. Except as otherwise provided in the NIST APMS plan, laws and regulations pertaining to GS employees (e.g., overtime pay provisions) continue in force for all NIST APMS employees in the same way as they do for GS employees.

Position Classification

Introduction

The objectives of the NIST classification system are to simplify the classification process, make the process more serviceable and understandable, and delegate decision-making authority and accountability to line managers.

Coverage

All former General Schedule positions at NIST are included in the NIST APMS.

Career Paths

A career path aggregates comparable occupations that have parallel career patterns and are suitable for similar treatment in staffing, classification, pay, and other personnel functions.

There are four career paths at NIST:

(a) Scientific and Engineering (ZP): research, policy, staff, and managerial positions in science, engineering, computing, and mathematics. Examples of occupational series in this career path are 401--Biologist, 801--General Engineer, 830--Mechanical Engineer, 855--Electronics Engineer, 1301--General Physical Scientist, 1310--Physicist, 1320--Chemist, 1520--Mathematician, and 1530--Statistician.

(b) Scientific and Engineering Technician (ZT): science and engineering support positions. Examples of occupational services in this career path are 332--Computer Operator, 802--Engineering Technician, 856--Electronics Technician, 1311--Physical Science Technician, and 1521--Mathematics Technician.

(c) Administrative (ZA): specialist positions in such fields as finance, procurement, human resources management, public information, technical information, accounting, and management analysis. Examples of occupational series in this career path are 080--Security Officer, 201--Personnel Management Specialist, 340--Program Manager, 341--Administrative Officer, 510--Accountant, 560--Budget Analyst, 1082--Writer-Editor, and 1410--Librarian.

(d) Support (ZS): clerical, assistant, secretarial, police, firefighter, and other support positions not fitting the definition of

any of the other career paths. Examples of occupational series in this career path are 081--Firefighter, 203--Personnel Clerk/Assistant, 305--Mail and File clerk, 318--Secretary, 525--Accounting Technician, 1105--Purchasing Agent, 1106--Procurement Clerk/Assistant, 1141--Library Technician, and 2102--Transportation Clerk/Assistant.

Pay Bands

Each career path is divided into five pay bands, which replace GS grades. The maximum rate of a pay band is step 10 of the highest GS grade in the band, including locality rates. When a special rate for one or more of the occupations in the band is higher than the applicable locality rate, NIST has the option of using the maximum applicable special rate to set the maximum rate of the band.

For each regular pay band, there is a corresponding supervisory pay band for employees who receive supervisory pay differentials. The supervisory pay band has the same minimum rate as the non-supervisory band, but has a maximum rate 6 percent higher than the maximum rate of the non-supervisory band. Positions in the supervisory pay bands include positions with formal supervisory authority over at least three positions and other positions approved by the Personnel Management Board (PMB) on a case-by-case basis.

The chart below shows the four NIST APMS career paths, the pay bands in each career path, and the relationship between pay bands and General Schedule grades.

NIST Career Paths and Pay Bands										
GS Grades	1	2	3	4	5	6	7	8	9	
CAREER PATHS										
(14) BANDS										
Scientific and Engineering.....										
(5) I										
(3) II										
(1) III										
(1) IV										V
Scientific and Engineering.....										
(3) I										
(3) II										
(1) III										
(1) IV										V
Administrative (ZA).....										
(5) I										
(3) II										
(1) III										
(1) IV										V
Support (ZS).....										
(1) I										
(1) II										
(1) III										
(1) IV										
(1) V										

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Occupational Series

The General Schedule occupational series are retained. New occupational series may be added or deleted in response to programmatic needs. New or revised series may also be established.

NIST Classification Standards

Each NIST classification standard describes each pay band in two factors: (1) general duties and responsibilities, and (2) knowledges, skills, and abilities. These two factors complement each other at each pay band in a career path and may not be separated in classifying a position. OPM classification standards are not used.

Position Descriptions

Line managers follow an automated menu-driven process to classify positions and produce position descriptions.

Delegation of Classification Authority

The NIST Personnel Management Board (PMB) oversees the delegation of classification authority to line managers. NIST will establish a plan to review the accuracy of classification decisions made by line managers and make periodic reports to the NIST Director. The Government-wide system of approval of SES and ST-3104 positions will be maintained.

Staffing

Introduction

NIST uses a variety of staffing options to fill positions. Under all options, the recruiting and examining efforts are based at NIST. OPM registers are not used. These options include Direct Examination and Hiring, Agency-Based Staffing, Merit Assignment, and various noncompetitive placements. The NIST Office of Human Resources Management (OHRM) oversees all examining and hiring activity. Line managers participate actively in the process.

Direct Examination and Hiring

NIST uses two direct examination and hiring authorities: Direct Hire Critical Shortage Occupations and Direct Hire Critical-Shortage Highly-Qualified Candidates. These vacancies are normally filled through direct recruiting by selecting officials, supplemented by a required search of the NIST Applicant Supply File.

Direct Hire: Critical Shortage Occupations

NIST uses direct-hire procedures for categories of occupations which require skills that are in short supply. All occupations for which there is a special rate under the General Schedule pay system constitute a shortage category; all occupations at Band III and above in the ZP Career Path constitute a shortage category; and Nuclear Reactor Operator positions at Pay Band III and above in the ZT Career Path constitute a shortage category. Any position in these three shortage categories may be filled through direct-hire procedures.

Direct Hire: Critical Shortage Highly Qualified Candidates

NIST uses direct-hire procedures for additional positions for which there is a shortage of highly qualified candidates. Candidates for positions at Band I or II of the ZP Career Path who have a bachelor's degree with at least a 2.9 GPA (on a 4.0 scale) or a master's degree constitute a shortage category; candidates for positions at Band I of

the ZT Career Path who have at least a 2.9 GPA in a course of study of at least 2 years in an accredited college, junior college, or technical institute constitute a shortage category; and candidates for positions at Band II of the ZT Career Path who have at least a 2.9 GPA in 4 years of college study constitute a shortage category.

Agency-Based Staffing

NIST uses agency-based staffing procedures to fill vacancies not covered by direct-hire or the NIST Merit Assignment Plan (MAP). Vacancies filled by agency-based procedures are advertised at a minimum through the automated nationwide OPM posting system.

Merit Assignment Plan (MAP)

NIST uses its MAP to fill positions restricted to current or former Federal employees with competitive status. This plan is amended to include any NIST APMS flexibilities.

NIST Applicant Supply File

NIST advertises the availability of job opportunities in direct-hire occupations by continuous posting of the NIST Applicant Supply Bulletin on the OPM electronic job opportunity listing. NIST accepts applications for this file on an open-continuous bases for all direct-hire authorities. NIST selecting officials may recruit directly for applicants, but any applicants they find must compete with applicants who apply through the Applicant Supply Bulletin and other applicants whose applications are stored in the Applicant Supply File.

Referral Procedures for Direct Examination and Hiring and Agency-Based Staffing Authorities

NIST uses either direct referral or rating and ranking to refer applicants for vacancies under direct-hire and agency-based staffing authorities.

1. Direct Referral

A qualified candidate may be referred directly without rating and ranking:

- a. when there are no more than three qualified candidates and no preference eligibles; or
- b. if the candidate is a preference eligible with a compensable service-connected disability of 10 percent or more (these preference eligibles are given absolute preference except when the position is at Band III or above in the Scientific and Engineering Career Path). Selecting officials may choose any of these preference eligibles when more than one are referred.

2. Rating and Ranking

Rating and ranking (including veteran preference and ``rule-of-three'' procedures) are used when the list of qualified candidates contains:

- a. more than three candidates; or
- b. two or more candidates including at least one preference eligible (except when direct referral of a 10-point veteran is made under 1b above).

Priority Placement

NIST follows all Department of Commerce and OPM priority placement programs.

Paid Advertising

NIST may use paid advertising as one of the first steps in recruitment without having to first try unpaid methods.

Private Sector Temporaries

NIST uses private sector temporary help services as appropriate.

Probationary Period

Probation under the NIST APMS follows current law and regulations, except when an employee in the ZP Career Path is required to serve a probationary period. The ZP probationary period is three years, except that a supervisor may end the probationary period of a subordinate ZP employee anytime after one year.

Qualification Standards

The qualifications required for placement within a pay band and within a career path are based on the OPM Qualification Standards for General Schedule Positions, except that testing requirements are not used and the Superior Academic Criterion is

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defined as a 2.9 GPA (on a 4.0 scale). The minimum qualifications for the occupation and for the GS grade corresponding to the lowest grade in the pay band apply. NIST may develop its own qualification standards based on current practices in the scientific, engineering, and computer science fields and to reflect modern curricula in recognized degree programs.

Recruitment and Retention Allowances

NIST may grant recruiting and retention allowances in appropriate circumstances, not to exceed \$10,000 or 25 percent of basic pay, whichever is greater. Decisions on allowances are based on market factors such as salary comparability and salary offer issues; relocation and dislocation issues; programmatic urgency; emerging technologies; turnover rates; special qualifications; and shortage categories or scarcity positions unique to NIST. All scientific, engineering, and other hard-to-fill positions are eligible. Recruitment and Retention Allowances are not considered part of basic pay.

Travel Expenses

Travel and transportation expenses, advancement of funds, per diem expenses incident to travel, and/or relocation expenses may be provided to new hires in the same manner as is authorized in sections 5723, 5724, 5724a, 5724b, and 5724c of title 5, U.S. Code. Recipients must sign service agreements indicating commitment to at least 12 months continued service.

Promotion

A promotion is a change of an employee to (1) a higher pay band in the same career path, or (2) a pay band in another career path in combination with an increase in pay. To be eligible for promotion, an

employee must have a current performance rating of Eligible. The time-in-pay-band requirement for promotion eligibility is 52 weeks, with two exceptions: (1) an employee may be promoted from Band I and Band II in the Support Career Path without time restriction; and (2) an employee may be promoted from Band II to Band III in the Support Career Path without time restriction if the employee was not promoted from a Band I to a Band II position during the previous 52 weeks. (For pay provisions related to promotion, see ``Pay Administration.'')

Reduction In Force

Introduction

NIST follows reduction-in-force procedures contained in law and regulation, with the following differences.

Link Between Performance and Retention

An employee with an overall performance score in the top 10 percent of scores within a peer group (see ``Performance Evaluation and Rewards'' below) is credited with 10 additional years of service for retention purposes. The total credit is based on the employee's three most recent annual performance ratings of record received during the 4-year period prior to an established cutoff date, for a potential total credit of 30 years. No reduction-in-force credit converts to this system from any other performance appraisal system.

Competitive Areas

Each of the four career paths in each NIST local commuting areas is a separate competitive area--separate from the other career paths and separate from the competitive areas of other NIST employees.

Link Between Pay Bands and Grades

OPM reduction in force regulations on assignments rights (5 CFR 351.701) are applied to the NIST APMS by substituting ``one band'' for ``three grades'' and ``two bands'' for ``five grades.'' OPM severance pay regulations (5 CFR 550.703) are applied to the NIST APMS by substituting ``one band'' for ``two grades'' and for ``two grade or pay levels.''

Pay Administration

Introduction

The NIST APMS pay administration system provides NIST with the ability to attract and retain quality employees through pay setting flexibilities and pay for performance.

Pay for Performance

Pay for performance has three components: (a) the NIST annual adjustment to basic pay; (b) annual performance pay increases; and (c) bonuses. The first component, the annual adjustment to basic pay, is set according to the subsections below referring to general and locality increases. The second component, performance pay increases, is set according to the procedures under ``Performance Evaluation and Rewards.'' The third component, bonuses, is composed of former cash awards.

Placement in a Lower Pay Band

An employee whose performance rating is unsatisfactory does not receive the NIST annual adjustment to basic pay. Because the minimum pay rate for each pay band is increased each year by the amount of the NIST annual adjustment to basic pay, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee in that pay band who does not receive the NIST annual adjustment to basic pay due to unsatisfactory performance. When this happens, the employee is placed in the next lower pay band. This placement shall not be considered an adverse action under 5 U.S.C. 7512, nor shall grade (i.e., pay band) retention under 5 U.S.C. 5362 be applicable.

Supervisory Pay Differentials

The original legislation authorizing the NIST demonstration project provided that "appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided." The differential does not apply to SES and ST-3104 positions.

Supervisors who formally supervise three or more subordinates and others approved on a case-by-case basis by the PMB receive supervisory differentials. The amounts of the differentials are up to 6 percent of base salary (see "Pay Bands" above for a description of the supervisory pay bands and their maximum rates).

Upon conversion of NIST supervisors to the NIST APMS, all eligible positions are placed in the supervisory pay bands. The incumbents of these positions are converted at their basic pay (including special rates or locality pay) at the time of conversion, except for ZP supervisors, who begin receiving the added differential upon conversion.

There are two types of supervisory differentials. The first type applies to new supervisors in the Scientific and Engineering (ZP) Career Path only. The amount of this type of differential is fixed at 3 percent for supervisors below division chief and 6 percent for division chiefs and equivalent. The second type applies to all bands in all career paths where there are supervisors. Supervisors in these bands may be eligible for higher band ceilings (up to 3 or 6 percent higher than the normal pay band ceiling) which they may reach through pay for performance.

The granting of a differential is not considered a promotion or a competitive action. The differential is canceled when an employee's supervisory responsibilities are discontinued. The cancellation of a supervisory differential does not constitute an adverse action and there is no right of appeal under 5 U.S.C. Chapter 75.

Pay and Compensation Ceilings

The maximum rate for a pay band (excluding special pay bands

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established to allow for the supervisory pay differential) is equal to the maximum rate--GS rate, locality rate, or special rate, as applicable--payable to GS employees for the grades corresponding to the pay band. An employee's basic pay may not exceed the maximum rate of the employee's pay band (including a supervisory pay band), except for employees receiving retained rates of pay.

An employee's rate of basic pay payable under any pay band may not

exceed the rate of basic pay payable for Level IV of the Executive Schedule. An employee's aggregate monetary compensation for a calendar year may not exceed the basic rate of pay for Level I of the Executive Schedule, as required by 5 U.S.C. 5307 and OPM regulations in subpart B of 5 CFR 530.

Locality Pay Options

On December 30, 1993, OPM approved the extension of locality pay to the NIST demonstration project. Two options were made available.

Option 1 would have required implementation of locality pay in a manner as consistent as possible with implementation for GS employees. Locality pay would have been separate from basic pay and would have counted as basic pay for the same limited purposes for which it is basic pay for GS employees (5 CFR 531.606(b)). All employees would have been eligible for locality pay adjustments regardless of performance rating. Employees in pay bands affected by special rates would have received full locality adjustments if their pay were no higher than the GS step 10 rate of the highest GS grade within the band, but if their pay were higher than that step 10 rate, they would have received an adjustment that would have increased their pay to no higher than the GS locality rate for step 10 (i.e., GS step 10 rate plus applicable locality payment).

Option 2 allows implementation of locality pay as basic pay, as an increase to the bonus pool, or a combination of the two. If applied as basic pay, the locality adjustment would be basic pay for all purposes except as otherwise provided in this plan. The locality adjustment would be applied to the minimum and maximum rates of each pay band. For pay bands affected by special rates, the maximum rate would be the higher of the special rate and the locality rate. A locality adjustment may be applied to an eligible employee's basic pay only to the extent that it does not cause the employee's basic pay to exceed the maximum rate of the pay band.

NIST selected option 2 and has implemented locality pay as basic pay. However, NIST may change its selection after sufficient internal notice to employees.

Effect of General and Locality Pay Increases on Pay Bands

The minimum and maximum rates of each pay band will be increased at the time of a general pay increase under 5 U.S.C. 5303 and/or a locality pay increase under 5 U.S.C. 5304 or 5304a so that they equal the new locality-adjusted minimum and maximum rates of the grades corresponding to the pay band. The maximum rates of bands set according to special rates, however, may exceed this amount to the extent necessary to equal the 10th step of the appropriate special rate scale if that rate is higher.

Effect of General and Locality Pay Increases on Individual Pay

Only employees with a current performance rating of "eligible" may receive an increase in their basic pay at the time of pay band adjustments. This increase in basic pay will reflect any applicable general and/or locality pay increase for General Schedule employees. The increase in basic pay for eligible employees whose basic pay is at the ceiling of their pay band will equal the increase in the ceiling.

The basic pay increase for eligible employees whose basic pay is below the ceiling of their band will be calculated by applying two factors to the employee's rate of pay. One factor is the general increase factor representing the increase in General Schedule rates

under 5 U.S.C. 5303 (e.g., 1.02 if the general increase is 2 percent). The second factor is the locality pay increase factor, which is derived by dividing the newly applicable locality pay percentage factor by the formerly applicable locality pay percentage factor. (For example, if the locality payment percentage for an area increased from 4.23 percent to 5.48 percent, the locality pay increase factor would be 1.0548 divided by 1.0423, or approximately 1.012.) Thus, the new rate of basic pay would be calculated using the following formula:

[GRAPHIC] [TIFF OMITTED] TN21OC97.009

However, a basic pay increase will be applied only to the extent that it does not cause an employee's basic pay to exceed the ceiling of the applicable pay band.

Basic Pay

Employees covered by the NIST APMS do not have separate basic pay rates and locality pay rates, as do General Schedule employees. They have a basic pay rate only, which reflects any general increases and/or locality adjustments calculated by the above formula. NIST APMS basic pay rates are basic pay for all purposes, except as specifically provided in the NIST APMS plan.

Pay Setting Upon Promotion

The new basic pay rate upon promotion may be set at any level in the new pay band (if the move is to a different career path, any pay band in the new career path would be considered a ``new pay band''), except that the minimum pay increase upon promotion is 6 percent.

Pay Setting for New Hires

The setting of initial salaries within pay bands for new appointees will be flexible, particularly for hard-to-fill positions in the scientific and engineering career path.

Private Sector Compensation Reports

The Institute will arrange for the preparation of reports that include findings on compensation for private sector positions. NIST will consider these findings when making NIST pay decisions.

Conversion of NIST Employees From the General Schedule to the NIST APMS System

For NIST employees being converted from the GS pay system to the NIST APMS, GS grades will translate directly to the NIST APMS's career-path and pay-band structure. NIST employees will be converted at their current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate) at the time of conversion, except for supervisors in the Scientific and Engineering Career Path who qualify for a supervisory/

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managerial pay differential upon conversion. No one's salary will be reduced as a result of the conversion. When conversion of a NIST employee into the NIST APMS is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the

employee's pay to the NIST APMS pay system.

At the time of conversion, each converted NIST employee will be given a lump-sum cash payment for the time credited to the employee toward what would have been the employee's next within-grade increase. The payment for a General Schedule employee will be computed by (1) calculating the ratio of (a) the number of days the employee will have spent in the employee's current rate through the day prior to the day of conversion, to (b) the total number of days in the employee's current waiting period for a regular within-grade increase (364, 728, or 1092 days), and (2) multiplying that ratio by the dollar value of the employee's next within-grade increase, as in effect at the time of conversion.

Movements of GS Employees From Other Organizations to the NIST APMS System

GS employees can move into the NIST APMS from other organizations through transfer, reassignment, promotion, or new appointment. When the movement is by lateral transfer or lateral reassignment, the employee's GS grade will translate directly to the NIST APMS's career-path/pay-band structure and the employee's rate of basic pay under the NIST APMS will equal his or her current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate), except for the addition of a supervisory differential if the position is a supervisory position in the Scientific and Engineering Career Path. When a lateral transfer or lateral reassignment is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the employee's pay to the NIST APMS pay system. When the movement is by new appointment, promotion, reassignment with pay adjustment (through merit assignment plan competition), or transfer to "higher grade" (i.e., to a band higher than the band that corresponds to the employee's current GS grade) the new pay rate is set according to NIST APMS pay setting flexibilities for new hires and promotions.

Pay Setting Upon Movement of a NIST Employee to a Different Pay Area

NIST employees who move (voluntarily or involuntarily) from one geographic area to another within NIST will have their pay adjusted to account for any change in the pay band maximum rates between the two areas. This adjustment ensures that the employee's relative position in the pay band (measured as a percentage of the pay band maximum rate) will be maintained upon movement. The pay rate in the new area will be derived using the following formula:
[GRAPHIC] [TIFF OMITTED] TN21OC97.010

The new pay rate is calculated before any other simultaneous pay action (e.g., general pay adjustment or promotion effective on the same date).

Any reduction in pay solely attributable to a movement from one pay area to a lower-paying area shall not be considered a reduction in basic pay under the adverse action provisions of 5 U.S.C. 7512(4) or under the pay retention provisions of 5 U.S.C. 5363. Nor shall such action be considered a reduction in basic pay under the pay retention provisions of 5 U.S.C. 5363. (The employee retains the right to grieve or file a complaint regarding a geographic reassignment if there is an allegation of a violation of nondiscrimination statutes or a prohibited personnel practice.)

Grade and Pay Retention

Grade and pay retention follow current law and regulations, except as allowed by specific waiver (e.g., substitute ``career path and band'' for ``grade''). Specific waivers are listed in the section below, titled, ``Authorities and Waiver of Laws and Regulations Required''.

Severance Pay

OPM severance pay regulations (5 CFR 550.703) are applied to the NIST APMS by substituting ``one band'' for ``two grades'' and for ``two grade or pay levels.''

Performance Evaluation and Rewards

Introduction

The performance evaluation system provides the basis for decisions on performance ratings, performance pay increases, bonuses, and other performance related actions. The performance year begins October 1 and ends September 30. However, an employee's performance overall or on a single element may be evaluated at any time that adequate information for an evaluation exists.

Coverage

All employees covered by the NIST APMS are covered by the APMS performance evaluation and rewards system, except the NIST may remove from the system any position not filled by career or career conditional appointment. ST-3104 employees have their performance evaluated under the structure of the performance evaluation system and may receive bonuses, but do not receive performance pay increases. Members of the Senior Executive Service remain under the DoC-NIST SES performance appraisal, pay, and bonus system.

Performance Plans

Performance plans are developed each year by supervisors with input from employees. Critical performance elements are established for each position (all elements are critical). The supervisor weights each element so that the total weight of all elements is 100 points. Benchmark performance standards define the range of performance. A supervisor may add supplemental standards to a performance plan to further elaborate the benchmark performance standards.

Mid-Year Review

A required mid-year review addresses mid-year accomplishments, performance successes and deficiencies, and any need for performance plan modifications. Additional reviews may be held as needed.

Performance Appraisal

Performance appraisals bring supervisors and employees together to discuss performance and accomplishments during the performance year. The appraisals lead to decisions by supervisors and pay pool managers on performance scores, performance ratings, performance pay increases, and bonuses. Performance appraisal is scheduled for the final

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weeks of the performance year, though at any time of the year a supervisor may place an employee on a performance improvement plan, assign an unsatisfactory rating if performance is still unsatisfactory, and take appropriate action.

Performance Ratings

The NIST ARMS performance ratings are Eligible (for performance pay increase, bonus, and annual adjustment to basic pay) and Unsatisfactory. Eligible covers the same performance range as the former ratings of Marginal, Minimally Successful, Fully Successful, Commendable, and Outstanding. Unsatisfactory covers the same performance as the former ratings of Unsatisfactory and Unacceptable. An employee whose performance is unsatisfactory is placed on a performance improvement plan and give an opportunity to improve before a final rating is assigned.

Performance Scores

Each element is evaluated individually against the benchmark performance standards and any supplemental standards. If a single element in an employee's plan is rated Unsatisfactory, the overall rating is Unsatisfactory and there is no performance score. If all elements meet at least the minimally acceptable benchmark, the overall rating is Eligible. Rating Officials score the performance of employees rated Eligible on a 100-point scale, which corresponds to the 100-point element weight scale. An individual element score may be as high as the weight of that element. The total performance score is the sum of the element scores. A perfect score on each element would produce a total score of 100 points.

Performance Ranking

Employees are ranked, by performance score, within a peer group. A peer group may involve no more than one career path, but may be otherwise organized by any combination of organization, occupation, pay band, or appointment type. Rating Officials rank their own employees, then Pay Pool Managers interleave the rankings of subordinate Rating Officials to produce peer group rankings at the pay pool level. A Pay Pool Manager is a line manager who manages his or her organization's pay increase and bonus fund and has final decision authority over the performance scores, performance pay increase, and bonuses of subordinate employees.

Performance Pay Decisions

The Performance Pay Table divides each pay band into three segments of intervals. Each interval is linked to a range of potential percentage pay increases beginning at zero and progressing to a maximum percentage pay increase. The maximum performance pay increase an employee may receive, therefore, depends on the interval into which the employee's salary falls. The Pay Pool Manager makes a performance pay decision for each employee in a peer group, based on the Pay Pool Manager's ranking and the pay increase ranges in the Performance Pay Table. Within a peer group, an employee may not receive a higher proportion-of-range than a higher-ranking employee or a lower proportion-of-range than a lower-ranking employee.

Performance Bonuses

Bonuses are the only cash awards directly linked to the NIST APMS performance appraisal system, and are awarded at the end of the performance year in conjunction with decisions on performance pay increases. A pay Poll Manager may award a bonus to any employee with an Eligible rating.

Actions Based on Unsatisfactory Performance

When an employee's final rating or performance on a single element is Unsatisfactory (after an opportunity to improve performance), NIST may take action to reassign or remove the employee, or place the employee in a lower band, in accordance with performance action provisions in law and regulation.

Employee Development

The objective of NIST's Employee Development Program is to develop the competence of employees for maximum achievement of Institute goals and objectives. The NIST APMS legislation mandates the continuation of an employee development program including, in appropriate circumstances, a sabbatical program. The NIST APMS sabbatical program is consistent with the terms and conditions of the SES sabbatical program. It covers all career appointees under the NIST APMS who have a least seven years of Federal service and a current performance rating of Eligible.

Evaluation

Periodic evaluations focus on human resource management issues. Evaluation criteria are derived from NIST APMS objectives, such as the objective to compete more effectively for high-quality staff. Evaluations are based on personnel records, collected data, and the results of employee surveys.

Costs

Although the NIST APMS legislation does not require budget neutrality, NIST has set for itself an objective to control total compensation costs associated with the NIST APMS. NIST maintains total compensation during the NIST APMS at the level it would have reached under the current Government-wide system. The procedure permits changes in NIST expenditures which result from legislatively mandated program changes and changes in Federal pay and benefits. NIST may offset selected salary increases with savings by reducing turnover, eliminating unnecessary overhead, and cutting other personnel costs. NIST measures its adherence to cost control by preparing budget estimates based on prescribed Federal Budget processes and monitoring actual spending under the NIST APMS against this budget estimate.

Conversion or Movement From a NIST APMS Position to a General Schedule Position

If a NIST APMS employee is moving to a General Schedule (GS) position, the following procedures will be used to convert the employee's APMS pay band to an equivalent GS grade and the employee's APMS rate of pay to equivalent GS rates of pay. The converted GS grade and rates of pay must be determined before movement out of the APMS and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted

GS grade and rates of pay will become the employee's actual GS grade and rates of pay, unless immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rates of pay will be deemed to be the employee's grade and rates of pay at the time of movement out of the APMS and will be used in applying applicable pay setting rules (e.g., promotion rules).

1. Grade-Setting Provisions: An employee in a pay band corresponding to a single GS grade is converted to that grade. An employee in a pay band corresponding to two or more grades is converted to one of those grades according to the following rules:

a. The employee's NIST APMS basic rate of pay is compared with step 4 rates in the highest applicable GS rate range (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in

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a special rate schedule for the employee's occupation). If the series is a two-grade interval series, only odd-numbered grades are considered below GS-11.

b. If the employee's pay rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.

c. If the employee's pay rate is lower than the applicable step 4 rate of the highest grade, the pay rate is compared with the step 4 rate of the second highest grade in the employee's pay band. If the employee's pay rate equals or exceeds step 4 of the second highest grade, the employee is converted to that grade.

d. This process is repeated for each successively lower grade in the band until a grade is found in which the employee's rate of basic pay equals or exceeds the applicable step 4 of the grade. The employee is then converted at that grade. If the employee's rate of pay is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

e. Exceptions: (1) If the employee's pay rate exceeds the maximum rate of the grade assigned under the above-described "step 4" rule but fits in the rate range for the next higher applicable grade in the band (i.e., between step 1 and step 4), then the employee shall be converted to that next higher applicable grade; (2) An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the NIST APMS, unless since that time the employee has undergone a reduction in band; (3) In Band I of the ZP and ZA Career Paths, students without a bachelor's degree or comparable experience are converted no higher than GS-4.

2. Pay-Setting Provisions: An employee's pay within the converted GS grade is set by converting the NIST APMS rate to GS rates of pay in accordance with the following rules:

a. The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement out of the NIST APMS.

b. An employee's NIST APMS rate is converted to a rate in the highest applicable rate range for the converted GS grade (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation).

c. If the highest applicable rate range is a locality pay rate range, the NIST APMS rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule,

the rate must be set at the higher step. The converted GS rate of basic pay is the GS base rate corresponding to the converted GS locality rate (i.e., same step position). (If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes for which the employee's higher locality rate is not basic pay.)

d. If the highest applicable rate range is a special rate range, the NIST APMS rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS rate of basic pay will be the GS rate corresponding to the converted special rate (i.e., same step position).

e. Exception: If an employee's NIST APMS rate exceeds the maximum rate of the highest applicable rate range upon conversion to the General Schedule the affected employee's NIST APMS rate will be converted to a retained rate under 5 U.S.C. 5363. If an employee is entitled to a special rate under the General Schedule, the NIST APMS is converted directly to a retained rate. If an employee is only entitled to locality pay under the General Schedule, this retained rate is derived by dividing the NIST APMS rate by the applicable locality pay factor (i.e., 1 plus the locality payment percentage). Thus, the locality-adjusted retained rate will equal the NIST APMS rate the employee had been receiving before conversion. Since the employee's total rate of pay is not reduced upon conversion, this change to converted rates under the General Schedule will not be considered a reduction in basic pay under 5 U.S.C. 5363 or 7512.

NIST APMS Revisions

Modifications must be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. Minor procedural modifications of this published NIST APMS plan within already existing waivers may be made by the NIST Director with appropriate notice (e.g., employee, OPM and/or Federal Register notice). No new waivers from law or regulation may be added.

NIST APMS Management and Oversight

In accordance with the original NIST project legislation, the project is "conducted by the Director of the National Bureau of Standards" (now NIST). The Director has delegated management and oversight of the NIST APMS to the Personnel Management Board (PMB), whose members and staff are appointed by the Director. The PMB is the NIST body to manage, evaluate, and make policy and procedural changes to NIST APMS systems when needed. When necessary, the PMB interprets and clarifies NIST APMS policy. The PMB establishes the management and administrative structures for running and evaluating the NIST APMS and oversees the delegations of authorities to managers, supervisors, and management bodies, including the withdrawal of authority when warranted. The PMB has the authority to make exceptions to normal NIST APMS procedures on a case-by-case basis when it believes an exception is warranted. The PMB also has the authority to establish itself as the approving body for any type of NIST APMS personnel action for which NIST has authority.

Authorities and Waiver of Laws and Regulations Required

Public Law 99-574 gave the National Institute of Standards and Technology (NIST) the authority to experiment with several specific personnel system innovations which are otherwise prohibited by law and

regulations. In addition to the authorities granted by the original NIST project legislation, the following waivers of law and regulation are included:

Title 5, U.S. Code

Section 5304, Locality-based comparability payments.

Section 5333, Minimum rate for new appointments.

Section 5753-5754 except that relocation bonuses under section 5753 continue to apply.

Subchapter VI of Chapter 53 Grade and Pay Retention, (To the extent necessary to allow the following modifications: (1) Pay retention does not apply to reductions in pay caused solely by geographic movement; and (2) pay retention does not apply to conversions to the General Schedule as long as the employee's total rate of pay is not reduced.)

Section 7512(4), Adverse actions, (To the extent necessary to allow the following modifications: (1) Exclude reductions in pay that are solely due to recomputation upon geographic movement; and (2) exclude conversions to the General Schedule that do not result in a reduction in the employee's total rate of pay.)

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Title 5, Code of Federal Regulations

Sections 315.801 Probationary period; when required, (waived only for positions in the Scientific and Engineering Career path)

Section 315.802 Length of probationary period, (waived only for positions in the Scientific and Engineering Career path)

Section 351.401 Determining Retention Standing.

Section 351.402 Competitive area in RIF.

Section 351.403 Competitive level in RIF.

Section 351.504 (a) and (d) Credit for Performance.

Section 351.701 Assignment involving displacement.

Section 531.203 Minimum rate for new appointments.

Part 575, Subpart A Recruitment Bonuses.

Part 575, Subpart C Retention Allowances.

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